

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In The Matter Of:

**PERKINS SPECIALIZED
TRANSPORTATION, INC.,**

Respondent.

**Docket No. FMCSA-2010-0235¹
(Midwestern Service Center)**

ORDER TERMINATING PROCEEDING AND CLOSING DOCKET

On August 3, 2010, the Midwestern Field Administrator for the Federal Motor Carrier Safety Administration (Claimant) submitted a Notice of Settlement and Motion to Close Docket. Claimant and Respondent entered into a Settlement Agreement that resolves the matters at issue here.

The Notice of Claim served on April 20, 2010 proposed a civil penalty of \$75,680 based on 86 violations of 49 CFR 395.8(e), false reports of records of duty status (\$880 per count). Under the Settlement Agreement, which was executed on July 15, 2010, and adopted as a Final Order,² Respondent agreed to pay \$22,704 in 12 consecutive monthly installments, with the remaining \$52,976 suspended contingent upon: (1) installation, use and maintenance of Electronic On-Board Recording devices (EOBRs) that comply with the requirements of 49 CFR 395.16 on Respondent's entire fleet of commercial motor vehicles by September 1, 2010, and continuing for the two-year term of the Agreement;³ (2) successful compliance with 49 CFR part

¹ The prior case number was IN-2010-0068-US0568.

² Settlement Agreement, paragraph 8.

³ According to the Agreement, Respondent operates 198 commercial motor vehicles. Respondent's obligations regarding EOBRs extend to vehicles purchased or acquired after

395 at the conclusion of any investigation conducted within two years from the date of execution of the Agreement;⁴ and (3) payment of the non-suspended portion of the civil penalty in accordance with the terms of the Agreement.

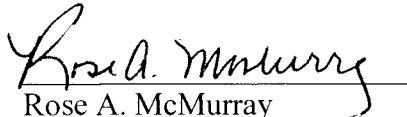
Paragraph 3 of the Settlement Agreement contains specific requirements regarding Respondent's installation, use and maintenance of EOBRs on its commercial motor vehicles. These include specifications regarding equipment and software, driver and employee training, management review and oversight, recordkeeping and documentation of compliance. The Agreement also requires Respondent to grant access to data generated by the EOBRs upon the request of FMCSA and appropriate State and local enforcement officials.

I conclude that suspension of 70% of the proposed penalty contingent upon the significant investment in advanced safety technology implemented under the conditions set forth in paragraph 3 of the Settlement Agreement is an appropriate settlement option. It is designed to ensure prompt and sustained compliance with 49 CFR part 395 and, considering the fact that Respondent operates almost 200 commercial motor vehicles, Respondent's costs in complying with the terms of the Settlement Agreement will likely exceed the amount of the suspended penalty. Moreover, the suspended penalty is subject to reinstatement if Respondent fails to carry out its obligations over the two-year term of the Agreement. The settlement is in the public interest and is accepted.

execution of the Settlement Agreement, and include vehicles operated by independent contractors and owner-operators employed by Respondent.

⁴ Under paragraph 3(B) of the Agreement, successful compliance with part 395 means no violations of acute regulations or no violations of critical regulations in part 395 at a violation rate equaling or exceeding 10%.

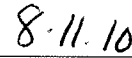
THEREFORE, *It Is Hereby Ordered*, the Settlement Agreement is the Final Order in this matter, the proceeding is terminated, and the docket is closed.

A handwritten signature in cursive script, reading "Rose A. McMurray", written over a horizontal line.

Rose A. McMurray

Assistant Administrator

Federal Motor Carrier Safety Administration

A handwritten date "8-11-10" written above a horizontal line.

Date

CERTIFICATE OF SERVICE

This is to certify that on this 12 day of August, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

Timothy Wiseman, Esq.
Scopelitis, Garvin, Light
Hanson & Feary
10 West Market Street, Suite 1500
Indianapolis, IN 46204

One Copy
U.S. Mail

Peter W. Snyder, Esq.
Trial Attorney
Office of Chief Counsel (MC-CCE)
Federal Motor Carrier Safety Administration
19900 Governors Drive, Suite 210
Olympia Fields, IL 60461

One Copy
U.S. Mail

Darin G. Jones, Field Administrator
Midwestern Service Center
Federal Motor Carrier Safety Administration
19900 Governors Drive, Suite 210
Olympia Fields, IL 60461

One Copy
U.S. Mail

Docket Operations
U.S. Department of Transportation
1200 New Jersey Avenue SE
Room W12-140
Washington, DC 20590

Original
Personal Delivery